

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	CRIMINAL NO. 05-
	:	
v.	:	HON.
	:	
D-1 ZHI GANG WANG,	:	
a/k/a "Joe,"	:	
D-2 HENRY YUAN HENG TUNG,	:	18 U.S.C. § 371
a/k/a "Mike,"	:	18 U.S.C. § 545
D-3 CHRISTOPHER YINGHOUN TUNG,	:	18 U.S.C. § 2320
D-4 TSUNGWEI LEO CHANG	:	18 U.S.C. § 2342
and	:	18 U.S.C. § 2
D-5 KEUNG LAM	:	18 U.S.C. § 982
	:	
	:	
Defendants	:	

INDICTMENT

THE GRAND JURY IN AND FOR THE DISTRICT OF NEW JERSEY,
SITTING AT CAMDEN, CHARGES:

INTRODUCTION

1. At all relevant times, a "Trademark," as defined in Title 15, United States Code, Section 1127, is any word, name, symbol or device or any combination thereof, used by a person to distinguish his or her goods, including a unique product, from that manufactured or sold by others and to indicate the source of the goods. The term "Mark" includes any trademark.

2. At all relevant times, a "Registered Trademark," as defined in Title 15, United States Code, Section 1127, is a trademark registered in the United States Patent and Trademark

Office according to law.

3. At all relevant times, and for purposes of this indictment, a “Counterfeit Mark,”
as

defined in Title 18, United States Code, Section 2320 (e)(1)(A), is a spurious mark that is used in connection with trafficking in goods and services which is identical to, or substantially indistinguishable from, a mark registered for those goods on the principal register for the United States Patent and Trademark Office and in use, and the use of which is likely to cause confusion, to cause mistake, or to deceive the potential purchasers of the counterfeit goods.

4. At all relevant times, and for purposes of this indictment, the term “Counterfeit Cigarettes” refers to cigarettes bearing counterfeit marks and trademarks.

5. Contraband Cigarettes is statutorily defined term which means a quantity in excess of 60,000 cigarettes (generally seven cases of cigarettes) which bear no evidence of the payment of applicable state cigarette taxes in the state where such cigarettes are found, if such state requires a stamp, impression or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes. Title 18 U.S.C. § 2341(2).

6. At all relevant times, the state of California imposed a state tax on cigarettes and required a state cigarette tax stamp on the cigarette packages.

7. The brand name cigarettes “Marlboro,” and “Marlboro Lights” are cigarettes manufactured in the United States by Phillip Morris USA. At all relevant times, the brand names “Marlboro,” and “Marlboro Lights” were registered trademarks of Phillip Morris USA.

8. “Bill of Lading” refers to a document that a transportation company possesses, acknowledging that it has received goods, which temporarily serves as the title to the goods

during the transport of the merchandise.

9. As used in this indictment, the term “container” is a reference to a large metal box approximately 40 feet in length used to transport bulk cargo on board ships as well as on tractor-trailer trucks. It is capable of transporting a maximum of approximately 1,100 cases of cigarettes.

10. As used in this indictment, the term “Case” or “Master case” of cigarettes generally describes a case of Contraband Cigarettes which contains fifty (50) cartons of cigarettes; the term “Carton” of cigarettes describes a carton which contains ten (10) packages; the term “Package” of cigarettes describes a package which contains twenty (20) individual cigarettes. Therefore, one case of cigarettes typically contains 10,000 individual cigarettes. In some instances, a case of cigarettes may contain sixty (60) cartons of cigarettes or 12,000 individual cigarettes. Legitimate cases of cigarettes always contain sixty (60) cartons.

COUNT ONE
(Conspiracy to Smuggle Cigarettes into the United States, Traffic in Goods Bearing Counterfeit Marks and Traffic in Contraband Cigarettes)

1. The allegations set forth in the Introduction of this Indictment are hereby repeated and incorporated herein by reference.

2. From in or about November 2002, through in or about April 2003, in the District of New Jersey, the Central District of California and elsewhere, Defendants

ZHI GANG WANG,
a/k/a “Joe,”
HENRY YUAN HENG TUNG,
a/k/a “Mike,”
CHRISTOPHER YINGHOUN TUNG,
TSUNGWEI LEO CHANG
and
KEUNG LAM

did knowingly and willfully conspire and agree with each other, with other unindicted co-conspirators, and with others both known and unknown to the grand jury, to commit the following offenses against the United States, that is:

- 1) to fraudulently and knowingly import and bring into the United States merchandise, namely, counterfeit and contraband cigarettes, contrary to law, and receive, conceal, buy, sell and in any manner facilitate the transportation, concealment and sale of such counterfeit and contraband cigarettes after importation, knowing the counterfeit and contraband cigarettes to have been imported and brought into the United States contrary to law, contrary to Title 18, United States Code, Section 545;
- 2) to intentionally traffic in goods, namely, cigarettes, and knowingly use counterfeit marks on and in connection with such cigarettes, contrary to Title 18, United States Code,

Section 2320(a) and

- 3) to knowingly ship, transport, receive, possess, sell, distribute and purchase contraband cigarettes, as that term is defined in Title 18, United States Code, Section 2341(2), namely, a quantity in excess of 60,000 cigarettes, which bear no evidence of the payment of applicable state cigarette taxes in the state where such cigarettes are found, namely the state of California, and said state requires a stamp, impression and other indication to be placed on packages of cigarettes to evidence the payment of cigarette taxes, contrary to Title 18, United States Code, Section 2342(a).

OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the defendants and their co-conspirators committed and caused to be committed the following overt acts, among others, in the District of New Jersey and elsewhere:

1. On or about November 7, 2002, a co-conspirator not named as a defendant met with undercover Federal Bureau of Investigation special agents believed to be members of a separate criminal organization (hereafter “undercover agents”) in City of Industry, California and provided the agents with false and fraudulent bills of lading and invoices for two container shipments of counterfeit and contraband cigarettes sent to the United States from the People’s Republic of China.

2. Prior to on or about November 27, 2002, co-conspirators not named as defendants, acting in concert with others, caused the transportation to Port Newark, New Jersey of two containers of counterfeit and contraband Marlboro and Marlboro Lights brand cigarettes totaling 2129 cases falsely listed on the bills of lading and invoices as wicker and rattan products

(hereafter the November 2002 Shipment).

3. On or about December 4, 2002, the two containers from the November 2002 Shipment were transported to an undercover warehouse in New Jersey at the direction of co-conspirators not named as defendants.

4. On or about December 20, 2002, a co-conspirator not named as a defendant met with an undercover agent in Hacienda Heights, California and paid the agent \$60,000 for the importation services provided by undercover agents related to the November 2002 Shipment.

5. On or about January 20, 2003, a co-conspirator not named as a defendant met with
undercover agents in Atlantic City, New Jersey and paid agents an additional \$20,500 for the importation services related to the November 2002 Shipment.

6. On or about January 27, 2003, co-conspirators not named as defendants met with undercover agents in Atlantic City, New Jersey and paid agents an additional \$20,000 for the importation services related to the November 2002 Shipment.

7. On or about March 12, 2003, a co-conspirator not named as a defendant engaged in a telephone conversation with an undercover agent in New Jersey and informed the agent that cases of counterfeit and contraband cigarettes from the November 2002 Shipment would be delivered to California.

8. On or about March 14, 2003, a co-conspirator not named as a defendant engaged in a telephone conversation with an undercover agent and discussed the delivery of the November 2002 Shipment to California.

9. On or about March 25, 2003, a co-conspirator not named as a defendant engaged

in a telephone conversation with an undercover agent, discussed the delivery of counterfeit and contraband cigarettes to the business "Lucky 777" in El Monte, California and provided a contact number for ZHI GANG WANG who would take possession of the cigarettes in El Monte, California.

10. On or about March 31, 2003, an undercover agent called the contact number previously provided and engaged in a conversation with ZHI GANG WANG to arrange the delivery of the November 2002 Shipment to El Monte, California.

11. On or about April 1, 2003, CHRISTOPHER YINGHOUN TUNG, TSUNGWEI LEO CHANG and KEUNG LAM each rented a U-Haul truck subsequently used to transport cases of counterfeit and contraband cigarettes.

12. On or about April 1, 2003, co-conspirators not named as defendants herein, caused the delivery by undercover agents of 807 cases from the November 2002 Shipment from an undercover warehouse in New Jersey to the parking lot of the business "Lucky 777" in El Monte, California.

13. On or about April 1, 2003, ZHI GANG WANG and HENRY YUAN HENG TUNG supervised the unloading of an undercover truck containing 807 cases from the November 2002 Shipment in the parking lot of the business "Lucky 777."

14. On or about April 1, 2003, CHRISTOPHER YINGHOUN TUNG, TSUNGWEI LEO CHANG, KEUNG LAM and other unidentified co-conspirators unloaded an undercover truck containing 807 cases from the November 2002 Shipment and loaded the cases into three U-trucks rented by CHRISTOPHER YINGHOUN TUNG, TSUNGWEI LEO CHANG and KEUNG LAM.

15. On or about April 1, 2003, CHRISTOPHER YINGHOUN TUNG and TSUNGWEI LEO CHANG drove a U-Haul rental truck from the parking lot of the business "Lucky 777" to a storage facility where cases of counterfeit and contraband cigarettes were loaded into a storage locker rented by CHRISTOPHER YINGHOUN TUNG.

16. On or about April 1, 2003, KEUNG LAM drove a U-Haul rental truck from the parking lot of the business "Lucky 777" to a storage facility where cases of counterfeit and contraband cigarettes were loaded into a storage locker rented by a co-conspirator not named as defendant.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO
(Smuggling Contraband and Counterfeit Cigarettes)

1. The allegations set forth in the Introduction of this Indictment are hereby repeated and incorporated herein by reference.

2. From in or about November 2002, through in or about April 2003, in the District of New Jersey, the Central District of California and elsewhere, Defendants

ZHI GANG WANG,
a/k/a “Joe,”
HENRY YUAN HENG TUNG,
a/k/a “Mike,”
CHRISTOPHER YINGHOUN TUNG,
TSUNGWEI LEO CHANG
and
KEUNG LAM

did fraudulently and knowingly receive, conceal, buy, sell, and in any manner facilitate the transportation, concealment and sale of merchandise, namely counterfeit and contraband cigarettes, after importation, knowing the counterfeit and contraband cigarettes to have been imported and brought into the United States contrary to law, in that co-conspirators failed to invoice such merchandise and did make out and pass and cause the making out and passing of false, forged and fraudulent invoices, documents and paper pertaining to said merchandise, contrary to Title 18, United States Code, Sections 542, 1001, and Title 19, United States Code, Sections 1481.

In violation of Title 18 United States Code, Sections 545 and 2.

COUNT THREE
(Trafficking in Goods Bearing Counterfeit Marks)

1. The allegations set forth in the Introduction of this Indictment are hereby repeated and incorporated herein by reference.

2. From in or about November 2002, through in or about April 2003, in the District of New Jersey, the Central District of California and elsewhere, Defendants

ZHI GANG WANG,
a/k/a “Joe,”
HENRY YUAN HENG TUNG,
a/k/a “Mike,”
CHRISTOPHER YINGHOUN TUNG,
TSUNGWEI LEO CHANG
and
KEUNG LAM

did intentionally traffic, attempt to traffic and aid and abet the trafficking in goods, namely, cigarettes, and did knowingly use and aid and abet the use of counterfeit marks, specifically the brand names “Marlboro” and “Marlboro Lights” on and in connection with such goods, which marks were identical with and substantially indistinguishable from genuine marks in use and duly registered for those goods on the principal register in the United States Patent and Trademark Office, and the use of which marks were likely to cause confusion, to cause mistake and to deceive.

In violation of Title 18, United States Code, Sections 2320(a) and 2.

COUNT FOUR
(Trafficking in Contraband Cigarettes)

1. The allegations set forth in the Introduction of this Indictment are hereby repeated and incorporated herein by reference.

2. From in or about November 2002, through in or about April 2003, in the District of New Jersey, the Central District of California and elsewhere, Defendants

ZHI GANG WANG,
a/k/a “Joe,”
HENRY YUAN HENG TUNG,
a/k/a “Mike,”
CHRISTOPHER YINGHOUN TUNG,
TSUNGWEI LEO CHANG
and
KEUNG LAM

did knowingly and unlawfully ship, transport, receive, possess, sell, distribute and purchase and cause the shipment, transportation, receipt, possession, sale, distribution and purchase, of approximately 807 cases of contraband cigarettes, as that term is defined in Title 18, United States Code, Section 2341(2), which bore no evidence of the payment of applicable state cigarette taxes for the states of New Jersey and California.

In violation of Title 18, United States Code, Sections 2342(a) and 2.

FORFEITURE ALLEGATION

1. The allegations contained in Count 2 are incorporated as if set forth at length herein for the purposes of noticing forfeiture, pursuant to Title 18, United States Code, Section 982(a)(2).

2. As the result of committing the smuggling offenses in violation of 18 U.S.C. § 545, alleged in Count 2 of this Indictment, defendants ZHI GANG WANG, a/k/a “Joe,” HENRY YUAN HENG TUNG, a/k/a “Mike,” CHRISTOPHER YINGHOUN TUNG, TSUNGWEI LEO CHANG and KEUNG LAM, shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(2)(B), any property that constitutes or is derived from proceeds the defendant obtained directly or indirectly, as a result of such violation, including but not limited to the following:

1. MONEY JUDGMENT

A sum of money equal to \$500,000 in United States currency, representing the amount of proceeds obtained as a result of the offense, smuggling counterfeit and contraband cigarettes, for which the defendants are jointly and severally liable.

If any of the above-described forfeitable property, as a result of any act or omission of the defendant(s):

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without

difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant(s) up to the value of the above forfeitable property, pursuant to Title 18, United States Code, Section 982(a)(2)(B).

A TRUE BILL

FOREPERSON

CHRISTOPHER J. CHRISTIE
United States Attorney